

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X Index No.
CHRISTOPHER ONTHANK, Date Purchased:

Plaintiff, Plaintiff designates
DUTCHESS
-against- County as the place of trial.


TRINITY-PAWLING SCHOOL, JOHN AND JANE DOE 1-30, The basis of the venue is
MEMBERS OF THE BOARD OF TRUSTEES OF Defendants' place of
TRINITY-PAWLING SCHOOL, in their official and individual business.
capacities, whose identities are presently unknown to
Plaintiff, **SUMMONS**

Defendants.
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To the above named Defendant(s)

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to
serve a copy of your answer, or, if the complaint is not served with this summons, to serve a
notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this
summons, exclusive of the day of service (or within 30 days after the service is complete if this
summons is not personally delivered to you within the State of New York); and in case of your
failure to appear or answer, judgment will be taken against you by default for the relief
demanded in the complaint.

Dated: New York, New York
October 17, 2019



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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

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CHRISTOPHER ONTHANK,

Plaintiff,

Index No.

Date Filed:

-against-

TRINITY-PAWLING SCHOOL, JOHN AND JANE DOE 1-30,
MEMBERS OF THE BOARD OF TRUSTEES OF
TRINITY-PAWLING SCHOOL, in their official and individual
capacities, whose identities are presently unknown to
Plaintiff,

VERIFIED COMPLAINT

Defendants.
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Plaintiff, CHRISTOPHER ONTHANK, by his attorney, MICHAEL G. DOWD,
complaining of Defendants, hereby alleges the following:

JURISDICTION AND VENUE

1. This action is timely commenced pursuant to the New York State Child Victims Act, dated February 14, 2019, and CPLR § 214-g.
2. The Court has jurisdiction pursuant to CPLR § 301 as Defendants' principal place of business is in New York and because much of the unlawful conduct complained of herein occurred in New York.
3. Venue is proper pursuant to CPLR § 503 because DUTCHESS COUNTY is the principal place of business of Defendants. In addition, many of the events giving rise to this action occurred in DUTCHESS COUNTY.

AS AND FOR A FIRST CAUSE OF ACTION:**NEGLIGENT SUPERVISION**

4. The Plaintiff, CHRISTOPHER ONTHANK, (hereinafter "PLAINTIFF") was born on August 28, 1961. He is a resident of Wilton, Connecticut.
5. Plaintiff attended TRINITY-PAWLING SCHOOL (hereinafter "TRINITY-PAWLING") from in or around 1976 through in or around 1980.
6. Defendant, TRINITY-PAWLING, was at all material times a private preparatory school doing business in DUTCHESS County, New York.
7. Upon information and belief, according to TRINITY-PAWLING'S website <https://www.trinitypawling.org/about/mission-history>, "The seven headmasters of Trinity-Pawling, from Dr. Gamage through William W. Taylor, have been guided by two principles: the ethos of effort and a commitment to help every boy discover his distinct gifts and develop new skills. In turn, the faculty provide engaging opportunities that spark a student's curiosity and cultivate his mind, body, and spirit. Young men graduate from Trinity-Pawling with greater confidence in their academic, athletic, artistic, and leadership skills".
8. Defendants, JOHN AND JANE DOE 1-30, whose names are presently unknown, were members of the TRINITY-PAWLING SCHOOL BOARD OF TRUSTEES (hereinafter "BOARD OF TRUSTEES") during all material times herein. Upon information and belief, the BOARD OF TRUSTEES was responsible for the operation of TRINITY-PAWLING, including fundraising and hiring administrators.
9. Upon information and belief, at all material times, LIVINGSTON COLE (hereinafter "COLE") was a teacher hired by TRINITY-PAWLING to teach science.

10. Upon information and belief, when COLE met PLAINTIFF in or around 1977, he was an employee and agent of TRINITY-PAWLING acting within the course and scope of his authority as a TRINITY-PAWLING teacher.
11. Sometime after PLAINTIFF met COLE in or around 1977, COLE began a pattern of grooming PLAINTIFF for the purpose of sexually abusing him. This grooming included but was not limited to giving the PLAINTIFF special attention, talking about shared interests with PLAINTIFF, and allowing PLAINTIFF to clean out the fish tanks and animal cages in the classroom.
12. COLE sexually abused PLAINTIFF from 1977-1978.
13. COLE continued acting as an employee and agent of TRINITY-PAWLING through the entire period when COLE sexually abused PLAINTIFF.
14. On multiple occasions, COLE would put his hands down PLAINTIFF'S pants and would touch his buttocks and attempt to touch PLAINTIFF's penis. PLAINTIFF would stop COLE from touching his penis by blocking his attempts and positioning his body in such a way to prevent COLE from reaching his penis while PLAINTIFF was cleaning out the fish tanks and animal cages in COLE'S classroom.
15. On one occasion during the above-referenced time period, COLE, upon invitation from PLAINTIFF'S parents who trusted COLE because of his status as a TRINITY-PAWLING teacher, stayed at the home of the PLAINTIFF. COLE was given a guest bedroom.
16. Sometime in the middle of the night COLE came into PLAINTIFF'S bedroom and attempted to sexually abuse PLAINTIFF by trying to get into PLAINTIFF'S bed.

PLAINTIFF ordered him out of his room. This event was extremely emotionally upsetting to PLAINTIFF.

17. Sometime during his matriculation at TRINITY-PAWLING, PLAINTIFF informed his parents of COLE'S sexual abuse of him.
18. Upon information and belief, PLAINTIFF'S parents informed PHILLIP SMITH (hereinafter "SMITH"), the headmaster of TRINITY-PAWLING at that time, about the abuse.
19. Upon information and belief, SMITH told CHRISTOPHER TILLSON (hereinafter "TILLSON"), Assistant Director of Admissions, about the abuse.
20. Upon information and belief, TILLSON assigned PLAINTIFF to another teacher and classroom but no disciplinary action was taken by TRINITY-PAWLING against COLE, nor did TRINITY-PAWLING report COLE to the appropriate civil authorities.
21. Even after PLAINTIFF was reassigned to another teacher, COLE continued to have contact with PLAINTIFF during PLAINTIFF'S remaining time at TRINITY-PAWLING. The contact during this period was emotionally distressing to PLAINTIFF.
22. Upon information and belief, COLE remained an employee at TRINITY-PAWLING during PLAINTIFF'S remaining time at TRINITY-PAWLING.
23. Upon information and belief, at all material times, FATHER RICHARD WYLAND (hereinafter "WYLAND") was a priest hired by TRINITY-PAWLING.
24. On multiple occasions, WYLAND rubbed PLAINTIFF'S back and patted PLAINTIFF on his buttocks outside of his pants.

25. At all material times, PLAINTIFF was aware of no TRINITY-PAWLING rules or regulations or policies concerning or addressing sexual abuse, sexual harassment, and sexual misconduct of TRINITY-PAWLING students, such as PLAINTIFF, by teachers and/or employees such as COLE and WYLAND.
26. During all material times, PLAINTIFF received no training or information in any form, including but not limited to, classroom instruction or oral presentation, through video or written document on how to deal with sexual misconduct, sexual abuse, sexual boundary violations or sexually harassing behavior by TRINITY-PAWLING teachers and/or employees on students like himself.
27. Upon information and belief, during all times herein, when PLAINTIFF was enrolled in school and communicated and otherwise interacted with COLE and WYLAND, PLAINTIFF was entrusted by his parents to the care of DEFENDANTS and during such periods, DEFENDANTS were acting in the capacity of *in loco parentis* because DEFENDANTS assumed custody and control over him as a minor child and as a student at the school.
28. Upon information and belief, COLE and WYLAND used their position of trust and authority vested in them by DEFENDANTS for the purpose of sexually abusing PLAINTIFF.
29. Upon information and belief, at all material times, DEFENDANTS had a duty to exercise the same degree of care and supervision over the students, including PLAINTIFF, under their control as a reasonably prudent parent would have exercised under the same circumstances. This means that DEFENDANTS assumed a duty of care to protect the safety and welfare of PLAINTIFF and students at TRINITY-

PAWLING. At all material times, DEFENDANTS owed a duty to PLAINTIFF to provide a safe and nurturing educational environment, where he would be protected from administrators and staff like COLE and WYLAND who were under the employment and control of DEFENDANTS.

30. Upon information and belief, during COLE and WYLAND'S employment by DEFENDANTS and while PLAINTIFF was a student in TRINITY-PAWLING'S care, DEFENDANTS failed to exercise the degree of care that a reasonable prudent parent would have exercised under similar circumstances.
31. At all material times, DEFENDANTS owed a special duty to PLAINTIFF that required DEFENDANTS to take reasonable steps to anticipate such behavior from its employees, like COLE and WYLAND, which threatened the safety of students including PLAINTIFF.
32. At all material times, DEFENDANTS had a duty to properly supervise COLE and WYLAND as their employees because of their duty to take care of PLAINTIFF.
33. At all material times, PLAINTIFF reposed his trust and confidence as student and minor individual in COLE, WYLAND, and DEFENDANTS, who occupied a superior position of influence and authority over PLAINTIFF, to provide PLAINTIFF with a safe and secure educational environment.
34. Upon information and belief, at all material times, DEFENDANTS knew or should have known of COLE and WYLAND'S propensity to sexually abuse minor students.
35. Upon information and belief, DEFENDANTS negligently failed to adequately implement a reasonable or effective supervisory system, plan, or protocol or

procedure for supervising personnel so as to prevent inappropriate, offensive, sexual and/or abuse or contact of students by TRINITY-PAWLING employees.

36. Upon information and belief, the injuries to PLAINTIFF resulted from DEFENDANTS' failure to provide PLAINTIFF with supervision of a parent of ordinary prudence under the same circumstances.
37. Upon information and belief, the injuries to PLAINTIFF were foreseeable consequences of DEFENDANTS' negligent failure to supervise COLE and WYLAND and PLAINTIFF. Said injuries were caused by or contributed to by the carelessness, recklessness and the grossly negligent conduct of DEFENDANTS, their agents, servants and/or employees, in failing to properly and adequately supervise the conduct of COLE and WYLAND as it related to PLAINTIFF.
38. By reason of the foregoing, PLAINTIFF sustained physical and psychological injuries, including but not limited to depression, anxiety, intimacy issues, and estrangement from family, and upon information and belief, some or all of these injuries are of a permanent and lasting nature; and PLAINTIFF has become and will continue to be obligated to expend sums of money for medical expenses.
39. That by reason of the foregoing, DEFENDANTS are liable to PLAINTIFF for punitive and exemplary damages.
40. It is hereby alleged pursuant to CPLR § 1603 that the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided in CPLR § 1602, including but not limited to CPLR § 1602(7).
41. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION:

NEGLIGENT RETENTION

42. PLAINTIFF repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.
43. Upon information and belief, as more fully alleged above, DEFENDANTS' duty of care to PLAINTIFF included a duty not to retain employees, such as COLE and WYLAND, who would use their position and authority and influence to harm minor students such as PLAINTIFF.
44. Upon information and belief, DEFENDANTS knew or should have known that COLE and WYLAND sexually abused PLAINTIFF and/or should have known of their propensity to abuse minor students with whom he came in contact with.
45. When PLAINTIFF was in their care, said DEFENDANTS failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
46. DEFENDANTS were wanton, reckless, officially tolerant and deliberately indifferent to abuse of PLAINTIFF by COLE and WYLAND.
47. By reason of the foregoing, PLAINTIFF sustained physical and psychological injuries, including but not limited to depression, anxiety, intimacy issues, and estrangement from family, and upon information and belief, some or all of these injuries are of a permanent and lasting nature; and PLAINTIFF has become and will continue to be obligated to expend sums of money for medical expenses.
48. That by reason of the foregoing, DEFENDANTS are liable to PLAINTIFF for punitive and exemplary damages.

49. It is hereby alleged pursuant to CPLR § 1603 that the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided in CPLR § 1602, including but not limited to CPLR § 1602(7).
50. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION:

NEGLIGENT FAILURE TO PROVIDE A SAFE AND SECURE ENVIRONMENT

51. PLAINTIFF repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.
52. During all material times, DEFENDANTS owed a special duty to PLAINTIFF as a student. This special duty required DEFENDANTS to take reasonable steps to anticipate such threats from its employees like COLE and WYLAND which threatened the safety of PLAINTIFF.
53. Upon information and belief, DEFENDANTS failed to provide a reasonably safe environment to PLAINTIFF by failing to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.
54. As a result, DEFENDANTS are liable to PLAINTIFF for their negligent failure to provide a reasonably safe and secure environment.
55. By reason of the foregoing, PLAINTIFF sustained physical and psychological injuries, including but not limited to depression, anxiety, intimacy issues, and estrangement from family, and upon information and belief, some or all of these injuries are of a permanent and lasting nature; and PLAINTIFF has become and will continue to be obligated to expend sums of money for medical expenses.

56. That by reason of the foregoing, DEFENDANTS are liable to PLAINTIFF for punitive and exemplary damages.
57. It is hereby alleged pursuant to CPLR § 1603 that the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided in CPLR § 1602, including but not limited to CPLR § 1602(7).
58. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION:

NEGLIGENT FAILURE TO TRAIN TEACHERS AND ADMINISTRATORS RELATED TO SEXUAL ABUSE AND TRAIN STUDENTS RELATED TO SEXUAL ABUSE

59. PLAINTIFF repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.
60. DEFENDANTS, their agents, servants and employees owed a duty of care to PLAINTIFF as more fully alleged above. That duty included the duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent and address inappropriate teacher/employee behavior and conduct including teacher/employee-student boundary violations, sexually inappropriate teacher/employee behavior and conduct and the sexual abuse of students by teachers/employees for the purpose of preventing the sexual abuse of students like PLAINTIFF.
61. Upon information and belief, DEFENDANTS did not establish effective training and education programs, policies and procedures for their administrators, teachers and employees calculated to detect, prevent and address the problem of the inappropriate

teacher/employee behavior and conduct including teacher/employee-student boundary violations, sexually inappropriate teacher/employee behavior and conduct and the sexual abuse of students by employees.

62. Upon information and belief, in failing to establish such training and education programs, policies and procedures for employees and administrators, DEFENDANTS failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
63. Upon information and belief, DEFENDANTS had a duty to train and educate students including PLAINTIFF on inappropriate teacher/employee behavior and conduct including teacher/employee-student boundary violations, sexually inappropriate teacher/employee behavior and conduct and the sexual abuse of students by teacher/employee and to establish effective policies and procedures to address said problems.
64. Upon information and belief, DEFENDANTS did not train and educate PLAINTIFF on the problem of inappropriate teacher/employee behavior and conduct including teacher/employee-student boundary violations, sexually inappropriate teacher/employee behavior and conduct and the sexual abuse of students by teachers/employees and did not establish effective policies and procedures to address said problems.
65. Upon information and belief, in failing to establish such training and education programs, policies and procedures for students like PLAINTIFF, DEFENDANTS failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.

66. Upon information and belief, DEFENDANTS are liable to the PLAINTIFF, as the result of their negligent failure to establish effective training and education programs, policies and procedures for their administrators, teachers and employees, calculated to detect and prevent inappropriate teacher/employee behavior and conduct and including teacher/employee-student boundary violations, sexually inappropriate teacher/employee behavior and conduct and the sexual abuse of students by teachers/employees . DEFENDANTS are also liable to PLAINTIFF for their failure to train and educate PLAINTIFF as a student on the problem of inappropriate teacher/employee behavior and conduct including teacher/employee-student boundary violations, sexually inappropriate teacher/employee behavior and conduct and the sexual abuse of students by teachers/employees and to establish effective policies and procedures to address said problems.
67. DEFENDANTS were wanton, reckless, officially tolerant and deliberately indifferent by their failure to develop such effective training and education programs, policies and procedures for employees, administrators and students.
68. DEFENDANTS, their agents, servants and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to establish adequate and effective professional training and education programs and procedures for their employees calculated to prevent abuse of youth.
69. By reason of the foregoing, PLAINTIFF sustained physical and psychological injuries, including but not limited to depression, anxiety, intimacy issues, and estrangement from family, and upon information and belief, some or all of these

injuries are of a permanent and lasting nature; and PLAINTIFF has become and will continue to be obligated to expend sums of money for medical expenses.

70. That by reason of the foregoing, Defendants are liable to PLAINTIFF for punitive and exemplary damages.

71. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).

72. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against the Defendants, together with compensatory and punitive damages, and the interests, costs and disbursements pursuant to the causes of action herein.

Dated: New York, New York
October 17, 2019



MICHAEL G. DOWD
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(212) 751-1640

SWEENEY, REICH & BOLZ, LLP
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Attorneys for Plaintiff


VERIFICATION BY ATTORNEY

MICHAEL G. DOWD, an attorney being duly admitted before the courts of the State of New York, hereby affirms the following under penalties of perjury:

That he is an attorney for the Plaintiff in the above-entitled action with offices located at 600 Third Ave, New York, New York; that he has read the foregoing VERIFIED COMPLAINT and knows the contents thereof; that the same is true to his knowledge, except as to the matters stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

That the reason why this verification is made by deponent instead of Plaintiff is because Plaintiff is not within the County of New York where deponent has his office. Deponent further says that the grounds of his belief as to all matters in the VERIFIED COMPLAINT not stated to be upon his knowledge are based upon conversations with the Plaintiff and other writings relevant to this action.

Dated: New York, New York
October 17, 2019



MICHAEL G. DOWD
Attorney for Plaintiff
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640